

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2019 JUL 23 AMH:46
CLERK
SO. DIST. OF GA.

FRANK D. MONSEGUE,)
Petitioner,)
v.) CASE NOS. CV416-021
UNITED STATES OF AMERICA,) CR414-019
Respondent.)

)

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 50), to which objections have been filed (Doc. 53). After a careful de novo review of the record, the Court concludes that Petitioner's objections are without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case. As a result, Petitioner's Motion to Amend/Re-open 28 U.S.C. § 2255 Motion (Doc. 49) is **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal.

Petitioner Frank D. Monsegue has filed a Motion to Amend/Re-open 28 U.S.C. § 2255 Motion. (Doc. 49.)¹ The Magistrate Judge has issued a report and recommendation

¹ The Court is citing to the civil docket in CV416-021 unless otherwise noted.

identifying the motion as a successive 28 U.S.C. § 2255 petition. (Doc. 50 at 1.) Accordingly, the Magistrate Judge recommends that the motion be denied and Petitioner's successive § 2255 motion should be dismissed as this Court lacks the jurisdiction to entertain a successive § 2255 petition. (*Id.* at 3.) This Court agrees with the Magistrate Judge's report and recommendation. This Court may only entertain a second or successive habeas corpus petition after a petitioner receives certification from the Eleventh Circuit Court of Appeals allowing the petition. 28 U.S.C. § 2244(b)(3)(A). Under Eleventh Circuit Rule 22-3(a), Petitioner must file an "Application for Leave to File a Second or Successive Habeas Corpus Petition" with the Eleventh Circuit, using the form provided by the Eleventh Circuit Clerk of Court, before filing a second or successive petition in this Court.

SO ORDERED this 23rd day of July 2019.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA